***THE HON'BLE MR JUSTICE L.NARASIMHA REDDY**

W.P.No.9520 of 1999

% 27.06.2007

Between:

The Sirpur Paper Mills Limited, rep. by its Director (Corporate Affairs) Mr. P. Vaman Rao, s/o. Late P. Narsimha Rao, 71 yesr, R/o. Hyderabad.

.... PETITIONER

AND

The Principal Chief Conservator of Forests, Andhra Pradesh, Aranya Bhawan, Hyderabad and another.

...RESPONDENTS

! COUNSEL FOR PETITIONER: Mr. VEDULA SRINIVAS.

^ COUNSEL FOR RESPONDENTS: G.P. FOR FORESTS.

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> Head Note:

? CITATIONS:

THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

W.P.No.9520 of 1999

Dated:27.06.2007

Between:

The Sirpur Paper Mills Limited, rep. by its Director (Corporate Affairs), Mr. P. Vaman Rao, R/o. Hyderabad.

..Petitioner.

and

The Principal Chief Conservator of Forests, Andhra Pradesh, Aranya Bhawan, Hyderabad and another.

..Respondents.

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.9520 of 1999

ORDER:

The petitioner challenges the proceedings, dated 18.02.1997, issued by the 2nd respondent, and the consequential letter,

dated 20.04.1999, issued by the 1st respondent.

The petitioner is a paper mill. One of the important raw materials for it is bamboo, which is exclusively supplied by the forest department of the Government of Andhra Pradesh. The contracts entered into for supply of bamboo are of two categories. Under the first category, the forest department itself cuts the bamboo to the required sizes, bundles the bamboo and stacks at a point, from which, the petitioner can transport. Under this category of contracts, the petitioner has to pay the selling price of the bamboo as well as the extraction charges. Under the second

category of contracts, the petitioner undertakes the activity of cutting, bundling and stacking the bamboo. Therefore, it would be under obligation to pay selling price alone.

In respect of the period between 1991-1992 and 1994-1995, the selling price as well as extraction charges were paid. However, on the ground that an audit objection was raised for not levying interest on belated payment of extraction charges, the 2nd respondent issued a notice, dated 18.02.1997. On receiving the same, the petitioner submitted his representation, dated 01.09.1997, alleging that the agreement for purchase of the bamboo does not provide for levy of interest on the extraction charges. Not being satisfied with the same, the 1st respondent issued the impugned notice, dated 20.04.1999, to the petitioner.

On behalf of the respondents, a counter-affidavit is filed. A reference is made to various provisions of the agreement, and the impugned action is sought to be sustained on the basis of the same.

Ms Shilpa, learned counsel representing Sri Vedula Srinivas, counsel for the petitioner, submits that there is no stipulation as to the time within which the extraction charges are to be paid, unlike, the selling price, which is to be paid on or before 15th of the succeeding month, as per Clause 11 of the agreement. She contends that respondents themselves did not demand any interest and that an audit objection raised at a subsequent point of time cannot constitute the basis for the present demand.

Learned Government Pleader for Forests, on the other hand, submits that Clause 11 of the agreement is widely purport

and applies to extraction charges also. He contends that there is no denial of the fact that there was delay in payment of extraction charges for the period referred to above, and the petitioner is under an obligation to pay interest thereon.

There existed series of contracts between the petitioner and the respondents for supply of bamboo. A part of the quantity was supplied to the petitioner by the department, by undertaking the activities of cutting, bundling and transporting up to the industries points etc. The petitioner does not dispute its obligation to pay the sale price for the bamboo and the extraction charges for the supply made in this manner. The corresponding amounts have been paid. The dispute is only as to the levy of interest on the belated payment of extraction charges for three years between 1991 and 1994.

In the agreement, there is a specific provision, namely, Clause 11, which mandates that the selling price for bamboo must be paid before 15th of the succeeding month. It is, in this context, payment of interest is provided on belated payments. Clause 11 of the agreement reads as under:

> "*Selling price for bamboo weighed at the weighbridge during a month shall be paid before the 15th of the succeeding month. Interest at the rate of 22% per annum or at the rate prescribed by the Government from time to time shall be paid by the lessee on all arrears and other amounts payable by the Lessee. In calculating interest, any overdue period of fifteen days and below will be treated as half month and any period of fifteen days and above but less than one month will be treated as one month".*

From a reading of this clause, it is possible to contend that it

applies not only to selling price but also to other amounts. Even if a liberal interpretation is to be given to this provision, it applies to such amount, as has become due beyond stipulated time. While the agreement had prescribed time for payment of the selling price, no such period is mentioned as regards extraction charges, which are covered by Clause 6 of the agreement. Unless there existed stipulated period, whether under the written agreement or as per practice for payment of a particular amount, it cannot be treated as belated. Further, in the absence of any specific provision, the payment of an amount can be said to have been belated if only it was preceded by a demand with the specific assertion that

non-compliance of the demand attracts interest. The record does not disclose that any such demand with the threat of levy of interest was made against the petitioner as regards payment of the extraction charges.

Even where the liability to pay interest exists, the claim as regards the interest has to be made while receiving the corresponding amount. If the amount is accepted without demur and no amount towards interest is demanded, the recipient of the amount cannot be permitted to make an independent claim for interest at a later point of time.

Viewed from any angle, the demand made by the respondents cannot be supported by law. Hence, the writ Petition is allowed, setting aside the proceedings, dated 18.02.1997, and consequential letter, dated 20.04.1999. There shall be no order as to costs.

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L.NARASIMHA REDDY, J

Dated:27.06.2007

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